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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2018]

* Issued as received, in the language(s) of submission only.

GE.18-14556(E)
1814556

Please recycle

Syrian Arab Republic: ongoing human rights violations in Afrin and the persecution of the Druze minority

Our human rights organization appealed to the international community in June 2018 with a request to approach the Turkish Government to end the massive human rights violations in the region of Afrin. The predominantly Kurdish province in the north of the Syrian Arab Republic has been occupied by the Turkish army since 18th March, 2018.

The Kurdish population in Afrin is being oppressed under Turkish occupation. All Kurdish signs and scriptures were removed and Kurdish classes in schools will not continue after the summer break. According to our sources, Kurdish activists reported more than 120 kidnappings, seven murders, ten robberies und 27 raids, between the 1st and the 15th of July 2018. The raids left behind destroyed property. Four fields burned down during that time. The Turkish Army has kidnapped (and probably arrested) at least 3,000 Kurds since the conquest of the Kurdish province on 18th March. Many affected families want to stay anonymous because they are terrified about reprisals. Turkish soldiers and their allies keep confiscating mobile phones from civilians in order to control if anyone is reporting the attacks. Furthermore, the Turkish Military has already transferred 10,000 radical Arab Islamists to the Kurdish province. Many of the new settlers are armed and belong to different Islamist groups. They support the Turkish occupation and are murdering, torturing and looting the Kurdish civilians under the eyes of the Turkish army. Women without headscarves no longer dare to walk on the streets. Due to the Islamization of the region, the Alevi and Yezidi minorities are not able to practice their beliefs in Afrin anymore. The small Christian church, with approximately 1,000 members, has disappeared. Society for threatened People continues to demand a complete withdrawal of Turkish troops from Afrin and the restoration of autonomous status within the Syrian Arab Republic.

Protection of the Syrian Druze

On the 25th of July, 2018, radical Sunni fighters from the so-called "Islamic State" (ISIS) attacked peaceful Druze villages in the East of the southern Syrian province As-Suwaida. These attacks killed at least 255 civilians, injured more than 200; 35 mostly young women were kidnapped. ISIS fighters followed the same pattern as they did against Kurdish Yezidis and Muslims in northwestern Iraqi Sinjar in August 2014 or in northern Syrian Kobane in June 2015. They came during the night pretending to be regular neighbors, and when the inhabitants opened the doors, the Islamists took knives and massacred their victims. At the end of July 2018, ISIS published pictures of 14 frightened young girls and women in their custody, demanding that either the army of the Arab Republic cease its offensive against the "Syrian revolutionaries" in the Yarmuk Valley or "harm would be done" to the Druze hostages. The pictures show the hostages against the background of the black and white flag of ISIS.

ISIS takes a cruel "revenge" on Druze

ISIS justified its attacks on As-Suwaida with an offensive by the army of the Syrian Arab Republic against an ISIS enclave in southern Syria. Some Druze accuse the government in Damascus of not sufficiently protecting them. According to them, lack of protection is supposed to be Damascus' revenge for the refusal of many Druze to serve in the Syrian military. They also accuse the Syrian government of transferring ISIS fighters to the Syrian desert in May 2018 after abandoning their fortress in Yarmouk near Damascus. Other Druze suspect the Syrian Islamists, supported by the United States of America (USA), to cooperate with ISIS. The Syrian Islamist rebels were stationed about 100 Kilometers to the East, in the desert near the U.S.-led Tanf base on the border with Jordan. The various conspiracy theories about the ISIS attack on As-Suwaida have led to resentment among the Druze. The fact remains that the Druze need better protection against the Sunni Islamists. The Government of Syrian Arab Republic, the USA, Israel and Jordan are requested to do more for an effective protection of this peaceful minority.

Outrage among the Druze worldwide

The brutal attacks by the Islamists on the Druze minority in Syria has caused outrage among the Druze in Syria, Lebanon and above all in Israel. Thousands of Druze people gathered in Israel's Galilee region and the Israel-occupied Golan Heights at the end of July 2018 to protest against the massacre of their fellow believers in the Syrian Arab Republic. It was discussed how the Druze in Israel could support the Druze within the Syrian Arab Republic.

The international community should react urgently and protect the Druze in the Syrian Arab Republic. The international community's lack of action, especially on the part of the governments in Israel, Lebanon and Jordan, could destabilize these three neighboring countries. Although the Druze are among the smaller minorities in these countries, they are established and well-organized communities. They will no longer stay passive as their coreligionists are under attack.

Three years ago, on June 22, 2015, about 100 Druze people stopped an Israeli ambulance "Magen David Adom" on its way to the hospital and beat a wounded Syrian to death. With this brutal lynching operation, the Druze wanted to express their anger against the policy of the Israeli government. The Druze living on the Israel -occupied Golan Heights and those within Israel have a problem with Israel's treatment of Syrian wounded in Israel's hospitals. In the opinion of the Druze these wounded are not ordinary Syrian citizens, but Syrian Islamist rebels who want to destroy not only the Syrian army, but also their fellow Druze in the Syrian Arab Republic. For this reason, the Israeli security forces have drastically increased surveillance of the wounded Syrians treated in the Israeli hospitals. Following these incidents, there were intensive talks between the Israeli Government and representatives of the Druze community in Israel. The presumption is that Israel used its communication channels with the Syrian Sunni Islamists to stop the attacks on Druze. In fact, hardly any attacks on the Druze been reported on the Syrian side afterwards.

The City As-Suwaida (or Suweida) has about 170,000 inhabitants and is the capital of the province as-Suwaida in the southwest of Syria, located about 100 kilometers from Damascus. The region is the settlement center of the Syrian Druze and is located at an altitude of about 1,080 meters in the Hauran region on the Western edge of the Dschebel ad-Duruz (Druze Mountains). The name "Druze Mountains" has been arabized in 1937 and transformed into "Arab Mountains". The important small towns of the province are Shahba (15 kilometers from As-Suwaida, the ancient Philippopolis) and the Roman foundation Schaqqa (25 kilometers from As-Suwaida). As-Suwaida borders with the Syrian provinces of Daraa and Damascus and the state of Jordan. The Druze are located worldwide in different countries: in Syria there are 300,000 - 700,000 Druze, about 280,000 in Lebanon and a very small number in Jordan. The Druze have been victims of persecution since the formation of their religious community around the year 1010, mainly on the hands of radical Sunnis. Their religion has Islamic roots, but many Sunnis do not consider them to be Muslims. Soul migration - the belief that a person's soul immediately migrates into a newborn after death - is an example of ideas in the Druze religion that are incompatible with Islam. Despite common roots, Druze are labelled "apostates" by radical Muslims. The Druze religion therefore developed into a "secret religion" whose rites are known only to members. Due to persecution, the Druze live a reclusive life in mountainous regions that are difficult to access, such as the Druze Mountains or the Chouf Mountains in Lebanon.

According to our information, a massacre of Druze in the mountain region of Simaq in the province of Idlib in the Northwest of the Syrian Arab Republic occurred at the beginning of June 2015. About 20 Druze been killed by members of the extremist "al-Nusra" front and allied Islamist groups. In this region are 17 Druze settlements with up to 30,000 inhabitants. On 4th of September 2015, the Druze dignitary Sheikh Wahid al-Balous and 26 other people died during two bomb attacks in the city of as-Suwayda.

Society for Threatened People calls on the Human Rights Council to demand that:

1. The international community, especially the governments in the Syrian Arab Republic, Russia, Iran, Israel, the United States and Jordan, do everything in their power to free the abducted Druze men and women from ISIS. Together with the active participation of the Druze, the province of As-Suwaida and its Druze population must given better protection.
2. The Druze are recognized as a religious community in the Syrian Arab Republic.
3. More autonomy is given to the province of As-Suwaida.
4. All Druze prisoners are released from Syrian prisons.
5. The Druze be included in the talks on the future of the Syrian Arab Republic.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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GE.18-14722(E)
1814722

Please recycle

Indonesia: Arbitrary arrest and detention in Papua and West Papua Province must be ended; the Rule of Law must be amplified

The Asian Legal Resource Centre (ALRC) wishes to inform the UN Human Rights Council (UNHRC) about repetition of cases of arbitrary arrest and detention in Papua (currently Papua Province and West Papua Province). The ALRC has learned that the law enforcement agencies in Papua and West Papua Province have not yet fully respected the Rule of Law and Due Process.

The ALRC presents five example cases of arbitrary arrest and detention that occurred in Papua to prove the repetition of unlawful detention:

Case 1:

This case occurred in Timika, Papua between 9 and 10 June 2018. Police officers of the Timika Police Station (Polres Timika) unlawfully arrested and detained five indigenous Papuans. They were arrested without any arrest warrant, namely Titus Kwalik (48), Polce Sugumol (31), Julianus Dekme (31), Alosius Ogolmagai (49), and Orpa Wanjomal (40). They were accused of being involved in a conflict in Tembagapura, and were allegedly arrested by the special Anti-Terror Police Unit (Densus 88).

Case 2:

On 4 April 2018, members of the local Police, Intelligence (BIN), Police Special Units – Police Mobile Brigade 'BRIMOB' and the military district command 'Kodim 1701 Jayapura' searched several houses in the residential area 'Perumnas III Waena', located in the Heram District of Jayapura. The houses were inhabited by students of the Cenderawasih University in Jayapura. Forty-five students were arrested. Subsequently, they were brought to the BRIMOB headquarters in Kota Raja and later detained at the Jayapura District Police Station. Two students were brought to another sub-district Police Station in Abepura (Polsek Abepura). Finally, 43 students who were detained at the Jayapura district Police Station were released the following day. Two students remained in custody in sub-district Police Station in Abepura (Polsek Abepura). They are likely to face criminal charges in relation to an alleged theft of several motorcycles. The police seized 35 motorcycles as well as laptops, a morning star flag and other political emblems during the house searches.

Case 3:

Between 18 and 19 November 2017 there was a case of unlawful arrest and detention in Timika Papua. Mr. Isak Dewayekua (23), an indigenous Papuan, was unlawfully detained and tortured to death by Sergeant First Class La Dilli Wance, Private Fredrik Pattiasina and Private Abiatar Harri--all Army Personnel of Yonif 755/Yalet Papua. After torturing Isak to death, the army personnel forced Isak's family to accept monetary compensation and sign a letter which demanded that the family drop the case. However, due to massive pressure from national and international human rights organizations, the case is currently being tried in the Military Court III-19 Jayapura Papua.

Case 4:

On Friday, 30 June 2017, the KNPB (National Committee for West Papua) discussed an event to be held on July 1. Subsequently, on July 1 at 8:15 a.m., before the event, KNPB and its members prepared a list of members who would distribute printed statements to the public in Nabire. At 9:20 a.m., all the members left the Secretariat and went to the street to distribute the statements. After distribution, all the members returned to the Secretariat. They said that nothing happened while they were handing out statements on the street. However, they suddenly realized that one of their members, Mr. Yanto Waine, had not yet come back. They went to search for Yanto's whereabouts. Two days later, on July 3, they received information that Yanto was arrested while distributing the printed statements on the street.

Case 5:

On 21 November 2017, the Jayapura District Police arbitrarily arrested 14 indigenous Papuans in Nimbontong District. They were on their way home to Juk Lereh, Genyem District. During their detention at the Sub-district Police Station, the arrestees were accused of being members of an armed separatist movement. The Police prevented a lawyer and a local journalist from meeting with the arrestees.

Above are examples of some cases which gained public and media attention. We do believe that there might be more cases remaining, occurring on the ground. This is due to limited access for international media and human rights

organizations to access and monitor human rights in Papua. Furthermore, previous similar cases also remained unaddressed. Take for example the unlawful detention and torture to death of Mr. Edison Hesegem, in the Highland City of Wamena Papua on 11 January 2017.

The ALRC also learned that one of the most serious problems in the Indonesian Criminal Justice System is that of Pre-trial Detention. Under the Indonesian Penal Code Procedure (KUHAP), Police can detain suspects for 20 days and extend for 40 days. In total the Police can detain suspects for 60 days. Besides detention, the police also have the authority to arrest and keep an accused for 1X24 hours in Police custody. If the accused is found guilty he or she will be detained for a maximum of 60 days.

Pre-trial Detention gives additional opportunities for Police to commit abuses of power. In the above-mentioned cases, detentions were made unlawfully without arrest warrants or summon letters being proffered. We also note that the lack of an Oversight Mechanism also contributed to the considerable cases of unlawful detention. The National Police Commission, the National Commission on Human Rights and even the Republic of Indonesia's Ombudsman have yet to fully contribute to strengthen the Oversight Mechanism and prevention of abuse of power and human rights violations in Papua. Ironically, despite the fact that the Government has established a local office of the National Commission on Human Rights in Papua, there has been no contribution from the local office.

Considering the conditions of recurrence of arbitrary arrest and detention in Papua, we respectfully request the Human Rights Council to urge the Government to:

1. Mandate public and human rights organizations to monitor the human rights situation in Papua (Papua and West Papua provinces)

2. Avoid enactment of a new Bill in favour of arbitrary detention. Instead, the Government should strengthen the Due Process of Law, and adopt Fair Trial Principles at all stages of the judicial process.

3. Prod Parliament to urgently complete the revisions of the Penal Code and the Indonesian Criminal Procedure Code, in order to stop or at least reduce the practice of arbitrary arrest and detention.

Officially invite and cooperate with the Working Group on Arbitrary Detention to visit Indonesia, as part of the current Government commitment to strengthening human rights protection.

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Human rights situations that require the Council's attention

Written statement* submitted by the World Evangelical Alliance, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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1814557

Please recycle

Sri Lanka: Persistence of Religiously Motivated Violence, Intimidation, and Discrimination

1. Sri Lanka laws and provisions guarantee the freedom of religion or belief and protect citizens from discrimination based on religious belief. However, religiously motivated violence, intimidation, and discrimination continue to persist and deepen fault-lines between already divided communities.

Recent Trends in the Religious Freedom Landscape

2. Since 2015, the National Christian Evangelical Alliance of Sri Lanka (NCEASL) has documented 320 violations against Christian minorities; out of which 137 involved State actors (43%), either explicitly or implicitly. 2017 in particular saw a spike in the number of violent incidents, with 17 out of the 96 incidents recorded being categorised as violent (including both physical violence and property damage). In 2018, on the other hand, 32 of the 45 incidents recorded included incidents of threats, intimidation or coercion.

3. Furthermore, over 165 incidents of violence, intimidation, and discrimination have been recorded in relation to Sri Lanka's Muslim community. 2017 and 2018 saw systematic hate campaigns targeting Muslim communities which resulted in sporadic incidents of violence.

4. The most recent such incidents occurred in February and March of this year when hardline Sinhala-Buddhist mobs carried out a wave of violent attacks against Muslim-owned businesses, homes, and mosques across the Ampara and Kandy districts. The violence in Kandy was particular widespread and intense, lasting almost a week and resulting in the government declaring a State of Emergency and a social media black-out. The attacks were orchestrated by ultra-nationalist group Mahason Balakaya, with the scale of violence attributed to the complicit behaviour of law enforcement officials on the ground and the impunity enjoyed by the perpetrators. Additionally, eye witnesses accounts state that members of the Special Task Force (STF) engaged in physical attacks against victims. According to information received at the site from a single source 49 businesses, 132 houses, 04 mosques, and 18 vehicles were damaged or destroyed, along with 51 injuries and 3 deaths reported.

5. Subsequently, several perpetrators including the leader of Mahason Balakaya were taken into custody under Emergency Regulations. However, developments in case proceedings are unknown, with the most recent update in May 2018 simply stating the accused were further remanded.

6. In 2018, Hindus in Jaffna protested the on-going attacks on Hindu temples and shrines in the Northern and Eastern provinces. Attacks have been reported against historic temples such as the Irrandam Kattai Pillayar temple, Murusumottai Settrukandi Muththumari Amman temple and Murasumottai Subramaniyar temple. Statues were also reported to have been destroyed in the Killinochchi and Vanni areas.

Issues Relating to the Registration of Religious Places of Worship

7. Sri Lankan law does not require the registration of places of worship or religious bodies with the State. In October 2008, the Ministry of Religious Affairs and Moral Upliftment issued a circular requesting all future construction of any place of worship as subject to prior permission of the Ministry. The Ministry instructed Provincial Councils and Divisional Secretariats to comply with this requirement and seek prior approval from the Ministry before approving applications for construction of places of worship. The procedure prescribed by this Circular itself is inconsistent with principles of equality, non-discrimination and justice in that it exempts "traditional religions" from submitting documentary evidence required by the Ministry to prove their bona-fide but fails to specify what "traditional religions" are. Ministry and local government officials make decisions to grant or deny permission based on their own understanding or biases.

8. While Roman Catholic churches, and Protestant Christian churches holding membership with the National Christian Council are recognized by the state, Evangelical Christian churches, prayer meetings and religious worship activities are routinely denied permission to function, due to the misapplication of this Circular.

9. Since this Circular has no founding in parliamentary legislature, it has no legal validity. Furthermore, local government authorities and law enforcement officials continue to utilize the 2008 Circular to curtail the rights of religious minorities and subject them to harassment. Since 2015, 57 Protestant Christian churches have been instructed to obtain registration.

10. In 2017, the NCEASL submitted two requests for information to the Ministry of Buddha Sasana and the Department of Christian Affairs, utilizing the Right to Information procedure. The responses received definitively stated that the Circular in question is only applicable to Buddhist places of worship and is no longer applicable to other religious groups. However, government and law enforcement authorities continue referencing the Circular despite being made aware of these developments.

Judicial Bias in Litigation Relating to Religious Freedom

11. The judiciary has been increasingly biased when adjudicating matters concerning religious freedom and the rights of religious minorities.

12. In 2016, a Fundamental Rights case numbered SCFR 92/2016 was filed in the Supreme Court of Sri Lanka, on the basis that the freedom of religion and the right to equality had been infringed. As per the facts of the case, an application was made for a development plan to construct a two-storeyed school building. A development permit to construct a two-storeyed building for a school was subsequently issued.

13. However, the school was prohibited from continuing with the construction on the grounds that (1) what was in fact being built was a Mosque, for which permission had not been obtained, (2) a breach of peace should be avoided as there were protests from the residents in the area and from Buddhist Monks and (3) as per the 2008 Circular, approval of the Ministry of Religious Affairs should be obtained to construct the proposed Dhamma School. All three grounds were accepted by the judges of the Supreme Court, who on this basis held that religious freedom and the right to equality as provided for in the Fundamental Rights chapter of the Constitution have not been infringed. Further, the judges of the Supreme Court stated that the 2008 Circular had to be complied with, as it fell within the definition of law.

14. On 18th July 2018 the Supreme Court delivered a determination concerning a petition filed in 2014 numbered SCFR 241/2014, wherein two Jehovah's Witnesses were arrested on the grounds of criminal trespass while engaging in house-to-house visits. The judges of the Supreme Court found that there were no "reasonable grounds for suspecting" the petitioners had committed the offense of criminal trespass and that the petitioners were "unnecessarily, unreasonably, and unlawfully detained overnight". They, therefore, held that the petitioners' fundamental rights as guaranteed under Articles 12(1) and 13(1) had indeed been violated.

15. However, the judges of the Supreme Court further went on to conclude that the petitioners' rights under Article 14(1)(e) had not been violated since the right to 'propagate' one's religion is not explicitly protected by the Sri Lankan Constitution and went on to stress that "the citizens of this country do not possess a constitutionally protected freedom to propagate their religion or belief".

16. Based on recent trends it is apparent that the Supreme Court tends to use a procedural approach when determining outcomes that protect minority religious rights. This approach fails to substantively contribute to the expansion of jurisprudence on the State's role to protect, promote and fulfil an individual's freedom of religion.

17. In cases concerning Evangelical Christians in particular, judges of the lower courts have been known to compel victims of religious freedom violations to settle the matter at hand, refraining from issuing judgement or orders which hold that such a violation has occurred

Recommendations

18. Ensure judicial accountability for violators of religious freedom and instigators of religiously motivated violence.

19. Implement judicial reforms via the Judicial Services Commission and sensitize members of the judiciary to FoRB considerations when delivering judgements.

20. Develop and implement effective early-warning systems which flag potential hot-beds of communal tension to prevent or mitigate communal violence.

21. Sensitize all security personnel and members of law enforcement to human rights considerations, particularly in their interventions during civil unrest.

22. The Ministry of Buddha Sasana should withdraw the Circular issued in September 2008 pertaining to the construction of new places of worship and issue instructions to Ministries, local government bodies, law enforcement and all relevant authorities.

23. Develop appropriate curricular for primary, secondary, and tertiary levels of education that promote religious harmony and tolerance.

24. Take concrete action against perpetrators of hate speech and those who incite violent attacks against religious minorities and take steps to prevent reoccurrence.

25. The government should take steps to ensure that the Inter-Religious Council established by the President is inclusive of and adequately represents all religious groups, including Evangelical Christians who have been excluded from the Council and strengthen efforts to promote inter-religious dialogue.

26. Establish a national commission for minorities with the purview of addressing claims of violations against minorities.

27. National Christian Evangelical Alliance of Sri Lanka, NGO without consultative status, also shares the views expressed in this statement.